

Charles J. Wyly, Jr., Chairman
D. Kent Anderson, Vice Chairman
Clive Runnells, Secretary-Treasurer

John Connally, *Former Governor of Texas*
Ray Stoker, *Chairman, Highway & Transportation Commission*
Lena Guerrero, *Chairman, Texas Railroad Commission*
Robert Lanier, *Former Chairman, Houston METRO*
David McCall, *Former Chairman, Dallas Area Rapid Transit*
Hershel Payne, *Chairman, Fort Worth Transportation Authority*

TEXAS HIGH-SPEED RAIL AUTHORITY

Bob Neely
Executive Director

823 Congress Avenue • Suite 1502 • Austin, Texas 78701 • 512/478-5484 • FAX 512/478-5486

July 3, 1991
REF: 91JAR395

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The Honorable Dan Morales
Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

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Opinion Committee

Dear Attorney General Morales:

I understand that the State Auditor has asked your staff for an opinion on our agency's current contract with the firm of Jackson & Walker as agency General Counsel. When contacted about annual approval procedures for outside counsel contracts by the Attorney General's Office in September, 1990, we responded with the attached letter, dated September 17, 1990.

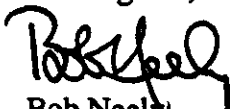
In our letter, I explained how the Board has interpreted our statute to allow the Board to directly employ any firm considered necessary, independent of any other approval mechanisms. As the letter states, the Comptroller of Public Accounts has processed vouchers for legal services ever since operations of the agency began. Since we never received a response to this letter, we assumed our interpretation was correct, and have proceeded to conduct our agency accordingly.

The Auditor's Office has asked for some closure on this particular issue for our agency. We certainly want to comply with applicable regulations, and believe we have done so, keeping with our statute. For the record, however, we need you to address the following questions:

1. Does the Board of Directors of the Texas High-Speed Rail Authority have the authority to directly contract with a firm to provide legal services if those services are to be paid using non-appropriated funds?
2. Does the Board of Directors of the Texas High-Speed Rail Authority have the authority to directly contract with a firm to provide legal services if those services are to be paid using appropriated funds which will be repaid as soon as practicable?

Thank you for addressing this issue. Please feel free to contact our principal attorney at Jackson & Walker, Mr. Michael French, to discuss this matter as well.

Best regards,


Bob Neely
Executive Director

RGN:ar/js

cc: Mr. Michael French, Jackson and Walker
Mr. Leo Paterra, State Auditor's Office
Attachments: Letters dated September 17, 1990

Ref: GAWDATA\OUTSDGL.DOC



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**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTON
ATTORNEY GENERAL**

September 17, 1990

Mr. Bob Neely
Executive Director
Texas High Speed Rail Authority
823 Congress, Suite 1502
Austin, Texas 78701

RE: Legal Representation

Dear Mr. Neely:

On behalf of the Attorney General's Office I would like to offer our congratulations to you and your Authority for organizing and being ready to conduct business. As you know, the Attorney General represents all state agencies under the Constitution and statutes and I will be more than pleased to meet with you to discuss your legal representation.

I am sure you are familiar with the fact that all state agencies must secure the approval of the Attorney General prior to engaging any outside legal firm and also that the Attorney General represents all agencies in litigation activities. Please see Section 41 of Chapter V of the Current Appropriations Bill (S.B. 222, 1st Called Session, 71st Legislature, page V-69).

I am taking the liberty of enclosing our outside counsel "package". You will notice that we have a strong policy in favor of minority legal representation which, of course, fits in with your Act which requires all services to be bid out on an affirmative action basis.

Please give me a call at your convenience if I can be of assistance.

Again, our congratulations.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lou McCreary", with a large, stylized flourish at the end.

Lou McCreary
Executive Assistant Attorney
General



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TEXAS HIGH-SPEED RAIL AUTHORITY

Bob Neely
Executive Director

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September 17, 1990
REF: 90RGN032

Mr. Lou McCreary
Executive Assistant Attorney General
Office of the Attorney General
Supreme Court Building
Austin, Texas 78711-2548

Dear Mr. McCreary:

Thank you for informing us of your office's services. Ms. Molly Shannon with your office has also contacted our offices to offer her services and assistance.

We are aware of the provisions of Section 41, Article V of the General Appropriations Bill (S.B. 222, 71st Leg., Regular Session, page V-69). However, the Texas High-Speed Rail Act grants the Authority the power to:

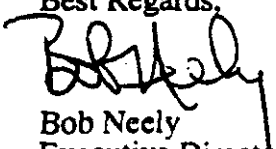
employ and remove any person, firm, partnership, or corporation considered necessary by the board for the conduct of the affairs of the authority, including a general manager, bookkeepers, auditors, engineers, attorneys, financial advisors, and advisors [Section 6(b)(6), Article 6674v.2, V.A.C.S.]

We have interpreted this authority to allow our Board of Directors to directly employ legal counsel and other advisors without the approval and notification provisions of Sections 41 and 69 in Article V of the General Appropriations Bill and in Article 6252-11c, V.A.C.S. The Comptroller of Public Accounts has concurred in this assessment, in that purchase vouchers for legal services payments have been paid during FY 1990.

For your records, the Authority's Board of Directors named Jackson and Walker, of Dallas, Texas, as our agency's general counsel at its meeting on April 6, 1990. Our principal attorney is Mr. Michael French, who can be reached at (214) 953-6000.

Thank you for your interest in our agency.

Best Regards,


Bob Neely
Executive Director

RGN:ar/js

cc: Mr. Michael French, Jackson and Walker

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